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Attorney for Defendant Joseph Dibee

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

UNITED STATES OF AMERICA,)	NO. 6:06-cr-60011-AA-1
)	
Plaintiff,)	DEFENDANT'S RESPONSE TO
)	GOVERNMENT'S SUPPLEMENTAL
v.)	MEMORANDUM (REGARDING
)	MOTION TO RECONSIDER
JOSEPH DIBEE,)	DETENTION ORDER)
)	
Defendant.)	
)	

Joseph Dibee, through his attorney, Paul Hood, provides this Response to the Government's Supplemental Memorandum.

Defendant respectfully moves the Court to strike the phone call transcript provided by the Government (ECF 304-Exhibit A) and to disregard any Government argument based on that transcript. The content of the phone call is in dispute. The original audio recording has not been provided to the Defendant, and that recording appears to be permanently unavailable. The Government should not be permitted to rely on a phone call that it cannot produce.

Apart the unavailability of the audio recording, there are additional reasons for the Court to disregard the transcript. The Court does not have a professional certification or any materials regarding the background, education, or experience of the interpreter. The Government does not

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dispute that there are multiple dialects of Arabic, and the Government has not attempted to address the portions of the transcript that appear to have been generated by Google Translate or some other automated translator. The Government has also not attempted to address the parts of the transcript that strongly suggest mistranslation, such as the Defendant allegedly saying, “They only understand if you are violent with them,” and then immediately talking about his intention to sue an employee of FCI Sheridan.

Mr. Dibee has not had disciplinary problems in the Columbia County Jail or at Inverness. It also appears that he never had disciplinary problems at FCI Sheridan, other than the mistranslated phone call at issue here. In addition, his last alleged criminal conduct was in 2001. This Court was right to find that he is not a danger.

The Government has not given the Court any assurance that the Multnomah County Sheriff will inform the Government or Court or anyone if there are COVID-19 cases at the jail. As of April 14, there is a confirmed case of COVID-19 at the Multnomah County Sheriff’s Office.¹ However, the Sheriff has not identified that person’s job duties. Undersigned counsel believes that inmates and staff at the Inverness are not being tested for COVID-19. On April 10, at the request of undersigned counsel, investigator Erin Howell contacted Captain Kurtiss Morrison of the Multnomah County Sheriff’s Office and asked if anyone at the jail has been tested for COVID-19. Captain Morrison referred Ms. Howell’s inquiry to another employee of the Multnomah County Sheriff’s Office, who in turn referred Ms. Howell to the Multnomah County Public Health Department. As of now, the question remains unanswered.

¹ Fox 12 News Oregon, “Employee with Multnomah County Sheriff’s Office tests positive for COVID-19,” (April 14, 2020) available at https://www.kptv.com/news/employee-with-multnomah-co-sheriffs-office-tests-positive-for-covid-19/article_f5857c84-7e78-11ea-9e3e-334ef4beb38e.html.

If there were regular testing of staff or inmates at the Inverness Jail, Ms. Howell would have already gotten an answer to her question. Instead, it appears that the Sheriff's Office is going to know about COVID-19 exposures only after it is too late. By the time a case is confirmed, the ill inmate or staff member will have likely already spread it to others, who will in turn spread it to more people.

Recent events confirm that the trend is going in the wrong direction. On March 30, the Government claimed there were no cases in facilities in Oregon that house federal detainees. On April 2, that claim was proven false with cases at the Marion County Jail. Twelve days later, there was a confirmed case at the Multnomah County Sheriff's Office, and we have no idea how long that person has been contagious or what contact that person has had with others while contagious. We cannot rely on the Multnomah County Sheriff's Office to address this situation, but there is an alternative: pretrial release. The time for that alternative is now.

DATED this 15th day of April 2020.

Respectfully submitted,

/s/ Paul Hood

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